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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,377	03/30/2001	Ahmet Mufit Ferman	KLR 7146.105	7388
55648 7590 11/02/2007 KEVIN L. RUSSELL CHERNOFF, VILHAUER, MCCLUNG & STENZEL LLP 1600 ODSOWER 601 SW SECOND AVENUE PORTLAND, OR 97204			EXAMINER SHANG, ANNAN Q	
			ART UNIT 2623	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

09/823,377

Applicant(s)

FERMAN ET AL.

Examiner

Annan Q. Shang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-5, 11-38 and 43-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5, 11-38 and 43-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. With respect to unamended claims 24-27 and 45, Applicant's arguments filed 08/06/07 have been fully considered but they are not persuasive.

With respect to claims 24-27 and 45, rejected under 35 U.S.C. 102(e) as being anticipated by **Labeeb et al (2003/0093792)**, applicant discusses the prior art of record cites a few columns in the disclosure and argues that the prior art of record does not teach the claim limitations (see page 10 of 13+ of applicant's Remarks)

In response, Examiner disagrees. Examiner notes applicants arguments, however Labeeb teaches the preference agent includes a software that allows it to create demographic profile for each viewer and certain algorithms and associated rules that enables advertisers to custom tailor targeted ads and further ensures that viewers privacy, using privacy filter 37 to delete personal information when necessary. In additional provide incentives to users to convince them to supply this type of information and carefully selecting users to across wide demographic cross section (page 19, [0234-0235], [0244-0245]). Labeeb further teaches that, "for those customers requiring a guarantee that private information cannot in some way leave the EUE, privacy is set at manufacture and cannot be altered by the software..." ([2925-2928]). Labeeb further discloses that most viewers don't want their private information collected and analyzed and uses various learning statistics, using Nielsen and other TV viewing surveyors to enable Ad companies to acquire, demographic information attached to the Ad's metadata at a cost ([3020-3023]). The above teachings of Labeeb in addition to othe

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privacy methods implemented in the disclosure, meets the claim limitation "...usage history description scheme includes data indicating whether personal identification information of a user is intended to be revealed to third parties." Hence applicant's arguments are not persuasive, the rejection is proper, meets all the claim limitation and maintained as repeated below.

With respect to amended claims 2 and 34, the prior art of record is meets the amended claim limitation, since the claim limitation "...may selectively prevent..." "...may be automatically..." recited in claims 2 and 34 respectively, are not a positive recitation. Maissel further discloses the profile loading apparatus 160, can also record (updating) viewer preference profile on any recording media (diskette or smart card) for transport to another viewer of similar apparatus. The system periodically updates the usage profile stored in the receiving unit and hence, each time the smart card is inserted, it automatically updates or loads the card with current usage data stored on the receiving apparatus.

With respect to the amended claims, the amendment necessitated the new ground(s) of rejection discussed below. **This office action is made final.**

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 24-27 and 45 are rejected under 35 U.S.C. 102(e) as being anticipated by **Labeeb et al (2003/0093792)**.

As to claims 24-27 and 45, **Labeeb** further disclose in figures 1-5, a method and apparatus for delivery of TV programs and targeted advertising and further discloses in combination with an audiovisual information management system resident on an electronic device having a memory, a description scheme for at least one of an audio, an image, and video comprising a plurality of frames comprising:

Information about a user with respect to at least one of audio, image and video based upon interaction of the at least one of the audio, image, and video and the profile information includes at least one type characterized by, at least in part, a time associated with the at least audio, image and video and processes information to determine preferences of the user (figs.1-5, page 3, [0067-0071], [0077]); and the usage history description scheme includes data indicating whether personal identification information of the user is intended to be revealed to third parties (0234-0235], [0244-0245], [2911-2912], [(2925-2928], [2936] and [3018-3023]), note that Labeeb monitors various payment preferences or options including advertisement and protects the privacy information of the viewer from third parties.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 11-15, 28-38, 43-44 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Maissel et al (6,637,029)** in view of **Osawa et al (5,956,037)**.

As to claims 2-5, note the **Maissel** reference figures 1-3, discloses a subscriber unit for receiving a program schedule, a profile storage unit for storing at least viewer preference, etc., and further discloses An electronic device for receiving a plurality of content comprising at least one of audio, an image, and a video, the electronic device comprising:

A receptacle (Receiver 'R' 110) for receiving a selectively insertable mobile storage device storing a usage preferences description scheme that describes current preferences of a user with respect to the at least one of an audio, an image, or a video (160, Diskette or Smart Card, col.14, line 54-col.15, line 16) comprising:

A memory storing a usage history description scheme for the at least one of an audio, an image and a video comprising a plurality of frames, the usage history description scheme (figs.1-2, col.12, line 16-col.14, line 53) comprising:

Information stored in the memory about a user about a user with respect to at least one of audio, image and video, based upon the viewer's interaction or previous

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usage of the at least one of the audio, image, and video and the profile information includes at least one description type defined by, at least in part, a thesaurus describing possible user actions where the electronic device is capable of retrieving the usage preferences description scheme from the mobile storage device when inserted into the receptacle and based upon the retrieved usage preferences description scheme, automatically identifying selective portions of the content, and where the electronic device periodically automatically updating the usage preferences description scheme stored on the mobile storage device, based upon the usage history description scheme and capturing content for usage history description scheme at a selectable level of detail based on the user's actions and at multiple levels of granularity and where the user-description schemes stored on the mobile storage device includes an attribute by which the user selectively updates the user preference description scheme based on the usage history description scheme (col.12, line 16-col.14, line 53, col.14, line 54-col.15, line 16 and line 38-col.16, line 11), note that the profile loading apparatus 160, can also record (updating) viewer preference profile on any recording media (diskette or smart card) for transport to another viewer of similar apparatus. The system periodically updates the usage profile stored in the receiving unit and hence, each time the smart card is inserted, it automatically updates or loads the card with current usage data stored on the receiving apparatus.

Maissel fails to explicitly teach where the history includes VCR-like functions, such as: pausing, fast-forwarding, reversing or rewinding, skipping, etc., of the content of at least one of audio and video, selected portions of the content descriptions.

However, **Osawa** discloses in figures 1-3, a video information providing/receiving system where the providing unit (Host 208) includes video information editing unit (211), which edits video based on extracted operation history information of User Terminal (UT) 200, which includes various VCR-like functions and further teaches using previous operation history to playback other video thereby providing the flexibility of the user to manipulate the video at various levels as desired (col.2, lines 43-52, col.3, line 62-col.4, line 24, line 37-col.5, line 19 and col.7, line 26-col.8, line 1+ and col.11, lines 27-63).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Osawa into the system of Maissel to edit the video and audio information based on operation history or VCR-like functions of the user, thereby when a user edits/processes received video information with his or her video recoding unit, he or she should perform the required operations while seeing the display.

As to claims 11-15, the claimed "In combination with an audiovisual information management..." is composed of the same structural elements that were discussed with respect to the rejection of claims 2-5.

As to claims 28-33, the claimed "In combination with an audiovisual information management..." is composed of the same structural elements that were discussed with respect to the rejection of claims 2-5.

As to claims 34-36, the claimed "In combination with an audiovisual information management..." is composed of the same structural elements that were discussed with respect to the rejection of claims 2-5.



As to claims 37-38, Maissel further discloses where the content, is used by parents to track their children's viewing habits and access to objectionable content (col.11, lines 30-37 and col14, lines 20-53).

Claims 43-44 and 46-48 are met as previously discussed with respect to claims 2-5.

6. Claims 16 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Maissel et al (6,637,029)** in view of **Osawa et al (5,956,037)** and further in view of **Lee et al (7,127,735)**

As to claims 16 and 19-23, note the **Maissel** reference figures 1-3, discloses a subscriber unit for receiving a program schedule, a profile storage unit for storing at least viewer preference, etc., and further discloses An electronic device for receiving a plurality of content comprising at least one of audio, an image, and a video, the electronic device comprising:

A receptacle (Receiver 'R' 110) for receiving a selectively insertable mobile storage device storing a usage preferences description scheme that describes current preferences of a user with respect to the at least one of an audio, an image, or a video (160, Diskette or Smart Card, col.14, line 54-col.15, line 16) comprising:

A memory storing a usage history description scheme for the at least one of an audio, an image and a video comprising a plurality of frames, the usage history description scheme (figs.1-2, col.12, line 16-col.14, line 53) comprising:

Information stored in the memory about a user about a user with respect to at least one of audio, image and video, based upon the viewer's interaction or previous usage of the at least one of the audio, image, and video and the profile information includes at least one description type defined by, at least in part, a thesaurus describing possible user actions where the electronic device is capable of retrieving the usage preferences description scheme from the mobile storage device when inserted into the receptacle and based upon the retrieved usage preferences description scheme, automatically identifying selective portions of the content, and where the electronic device periodically automatically updating the usage preferences description scheme stored on the mobile storage device, based upon the usage history description scheme and capturing content for usage history description scheme at a selectable level of detail based on the user's actions and at multiple levels of granularity and where the user-description schemes stored on the mobile storage device includes an attribute by which the user selectively updates the user preference description scheme based on the usage history description scheme (col.12, line 16-col.14, line 53, col.14, line 54-col.15, line 16 and line 38-col.16, line 11), note that the profile loading apparatus 160, can also record (updating) viewer preference profile on any recording media (diskette or smart card) for transport to another viewer of similar apparatus. The system automatically periodically updates the usage profile stored in the receiving unit and hence, each time the smart card is insert it is automatically periodically updated with the current usage profile

Maissel fails to explicitly teach where the history includes VCR-like functions, such as: pausing, fast-forwarding, reversing or rewinding, skipping, etc., of the content of at least one of audio and video, selected portions of the content descriptions.

However, **Osawa** discloses in figures 1-3, a video information providing/receiving system where the providing unit (Host 208) includes video information editing unit (211), which edits video based on extracted operation history information of User Terminal (UT) 200, which includes various VCR-like functions and further teaches using previous operation history to playback other video thereby providing the flexibility of the user to manipulate the video at various levels as desired (col.2, lines 43-52, col.3, line 62-col.4, line 24, line 37-col.5, line 19 and col.7, line 26-col.8, line 1+ and col.11, lines 27-63).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Osawa into the system of Maissel to edit the video and audio information based on operation history or VCR-like functions of the user, thereby when a user edits/processes received video information with his or her video recoding unit, he or she should perform the required operations while seeing the display.

Maissel as modified by Osawa, fail to explicitly teach where the usage history description scheme is not used by the audiovisual information management system to do any actions selected from the list of: selecting, filtering or searching of the at least one of an audio, an image or video.

However, note **Lee** reference figure 2, discloses a VOD system and video viewing assisting method, where a profile card stores a user's viewing or usage data

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and transmitted the usage data to a server where the server analyzes the received usage data (fig.2, col.4, line 10-63 and col.5, line 24-50).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Lee into the system of Maissel as modified by Osawa to provide additional storage medium to store and transmit to a server, a user usage data, thereby providing additional protection to stored usage data.

7. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Maissel et al (6,637,029)** in view of **Osawa et al (5,956,037)** and further in view of **Lee et al (7,127,735)** as applied to claim 16 above and further in view of **Labeeb et al (2003/0093792)**.

As to claims 17-18, Maissel as modified by Osawa and Lee, fail to explicitly teach where the level of details is based on the capabilities of the system and suitable for interchangeability with other systems.

However, Labeeb further discloses where the level of details is based on the capabilities of the system and suitable for interchangeability with other systems ([0167], [0205], [0262], [1791] and [2820+]).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Labeeb into the system of Maissel as modified by Osawa and Lee to encode multiple versions of data to meet processing capabilities of various devices.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', with a stylized flourish at the end.

**Annan Q. Shang**